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IN THE COURT OF THE ASSISTANT COMMISSIONER OF ENDOWMENTS
BHUBANESWAR

ORDER

The 22nd January 2020

No. 59 (J)-A.C.—

Present :

Shri Ashish Pattanaik, O.J.S.,
Assistant Commissioner of Endowments,
Bhubaneswar.

O. A. No. 1 of 2017 (under Section 42 of the Orissa Hindu Religious Endowments Act, 1951)

In the matter of
Shree Rameswar Deb Bijje
At Gabapadar, P.O. Badakul, P.S. Balugaon,
District Khordha, bearing Index No. 1401-P/21-R.P.(M).

This matter having come on for final disposal before the Assistant Commissioner of Endowments, Bhubaneswar, it is hereby ordered as follows :—

Whereas the Assistant Commissioner of Endowments, Bhubaneswar is satisfied that the above institution along with its endowments cannot be properly managed under the general provisions of the Orissa Hindu Religious Endowments Act, 1951, he after consulting with the trustee and persons having interest in the institution, hereby settle the following Scheme of Administration under Section 42 (1) (a) of the OHRE Act, 1951 in the interest of the proper administration of the religious institution.

SCHEME OF ADMINISTRATION

1. This scheme shall be called the Scheme of Administration of Shree Rameswar Deb Bijje At Gabapadar, P.O. Badakul, P.S. Balugaon, District Khordha, which shall come into force after its publication by affixture on the noticeboard or frontdoor of the temple and in the *Odisha Gazette*.

2. In the scheme, unless there is anything repugnant in the subject or context—

- (i) The “Act” means the Orissa Hindu Religious Endowments Act, 1951.
- (ii) The “Rules” means the Orissa Hindu Religious Endowments Rules, 1959 framed under the Act, as amended from time to time.
- (iii) “Net income” means the income remaining for expenditure after payment of Government and statutory dues.
- (iv) “Executive Officer” means the Executive Officer appointed under Clause 5 of the Scheme of Administration.
- (v) All other words and expressions used herein shall have the same meaning as are respectively assigned to them in the Act.

3. Non-hereditary Trustees, their number and appointment etc.—

- (i) Subject to the provisions contained in the Act and the Rules, the said institution with its endowments shall be administered by a Board of Non-hereditary Trustees not exceeding eleven (11) members to be appointed by the Assistant Commissioner of Endowments, Bhubaneswar. Out of such members, not less than six (6) members shall be appointed by virtue of their office amongst the officers of the State Government preferably from the Subdivision in which the religious institution is situated and five members shall be from the general Hindu Public of the locality, who shall hold office for such period not exceeding two years.
- (ii) The Board of Trustees shall elect one from amongst the officers belonging to the State Government appointed as trustees as President of the Trust Board by way of passing resolution to that effect and report his name to the Assistant Commissioner of Endowments, Bhubaneswar for approval.
- (iii) If the Assistant Commissioner of Endowments, Bhubaneswar feels it proper, then he may straightaway direct a particular officer belonging to the State Government to function as the President of the Trust Board at the time of appointment of non-hereditary trustees without waiting for the result of the election amongst the trustees appointed by him.
- (iv) Any vacancy or vacancies occurring in the office of any of the Trustee(s) during the tenure of the Trust Board shall be filled up by the Assistant Commissioner of Endowments, Bhubaneswar.
- (v) The Assistant Commissioner of Endowments, Bhubaneswar may remove any of the members of the Trust Board at any time, as per the provisions contained in Section 28 of the Act.

4. Meeting of the Trust Board etc.—

- (i) Every meeting of the Trust Board shall be presided by the President and in his absence, by a member chosen by the members present in the meeting for such purpose.

- (ii) In case any trustee is found to remain absent in meetings of the Trust Board on three consecutive occasions despite notice to attend the meetings, he shall cease to be a trustee with effect from such date as will be fixed by the Assistant Commissioner of Endowments, Bhubaneswar unless there are reasonable grounds for not attending meeting to the satisfaction of the Assistant Commissioner of Endowments, Bhubaneswar.
- (iii) Every meeting of the Trust Board shall be convened by the Executive Officer of the institution in consultation with the President of the Trust Board by giving advance notice in writing to the other members. Three clear days notice shall be considered adequate in normal circumstances except in emergency when notice of twenty-four hours shall be considered adequate.
- (iv) The quorum for a meeting of the Trust Board shall be ordinarily six (6).
- (v) The members of the Trust Board shall meet at least once in every month within the premises of the institution for passing the accounts of the previous month and for considering other matters connected with the management of the institution. The meeting so envisaged shall be held by the second week of every month. If the said meeting is not convened by the Executive Officer by the second week of a month for any reason, any three or more members of the Trust Board may requisition for the meeting of the members of the Trust Board by giving notice to other members of the Board at least three days before the date fixed for such meeting. In case such meeting is not convened either by the Executive Officer or by the members within 25th day of the month, the Assistant Commissioner of Endowments, Bhubaneswar or any person authorized by him shall have the power to call for such meeting and such meeting shall be deemed to be a meeting called by the Trust Board.
- (vi) All questions arising at a meeting of the Trust Board shall be decided by a majority of votes of the members present there and in every case of equality of votes, the president or the member presiding shall have the right of exercising a casting vote.
- (vii) The proceeding of the meeting of the members of the Trust Board shall be recorded in a book to be kept for the purpose and shall be signed by all the members present. Copies of the resolutions shall be submitted to the Assistant Commissioner of Endowments, Bhubaneswar by the Executive Officer for approval within a week such resolutions are passed.
- (viii) If for any reason, the Trust Board does not properly function due to any internal misunderstanding amongst the members, the Executive Officer shall manage the institution with the prior approval of the Assistant Commissioner of Endowments, Bhubaneswar.

5. Appointment of Executive Officer etc.

- (i) The Executive Officer shall be appointed by the Assistant Commissioner of Endowments, Bhubaneswar. The Executive Officer should preferably be a local person.

- (ii) No person shall be eligible for appointment to the post of Executive Officer, unless he has passed the Matriculation examination. He must have attained the age of 30 years and not more than 60 years, provided that in suitable cases, the Commissioner of Endowments, Odisha shall have the power to exempt any candidate from the operation of such criteria assigning reasons.

He shall furnish at least a cash security of Rs. 25,000 (Rupees twenty-five thousand) only or of such amount as would be fixed by the Assistant Commissioner of Endowments, Bhubaneswar at the time of his appointment.

He shall be paid such salary out of the funds of the institution as may be fixed by the Assistant Commissioner of Endowments, Bhubaneswar. The Assistant Commissioner may disallow payment of monthly salary of the Executive Officer for neglect of duty, breach of trust, incapacity, misconduct and disobedience of lawful orders of the authority.

The paid Executive Officer shall be a whole time officer of the temple and he shall not undertake any work unconnected with his office.

6. Powers and Functions of the Executive Officer—

- (i) The Board of Trustees shall be a body corporate and all the suits and legal proceedings in favour of or against the Trust Board of the institution shall be conducted in the name of the Executive Officer on behalf of the Trust Board.
- (ii) The Executive Officer shall be the *ex officio* Secretary of the Trust Board of the institution.
- (iii) Subject to the control of the Trust Board, and the provisions of the Scheme, the Executive Officer shall manage the properties and the affairs of the institution and arrange for conducting the daily worship, nitikanti and performance of ceremonies and festivals of the institution according to the usage.
- (iv) Subject to the provisions contained in the Act, the Executive Officer shall be responsible for submission of all returns prescribed in the Act and the Rules framed thereunder.

All the employees of the institution shall be appointed by the Executive Officer, subject to the prior approval of the Trust Board and the Assistant Commissioner of Endowments, Bhubaneswar. The employees of the institution shall be paid out of the funds of the institution such salary as may from time to time fixed by the Executive Officer with the prior approval of the Trust Board, subject to the budgetary limit.

The Executive Officer may remove, suspend, dismiss or fine the employees only in urgent cases. However, in such cases, such action shall be placed in the succeeding meeting of the Trust Board and the decision of the Trust Board shall be final and the affected employee may prefer an appeal as per the provisions contained under Section 32 of the Act. In the normal circumstances, the Executive Officer can do so only after getting approval from the Trust Board.

The Executive Officer with the prior approval of the Trust Board may make temporary arrangements as and when necessary for carrying out the duties of Pujaris, Archaks and other persons in charge of the performance of religious rites and such servants shall be under the disciplinary control of the Executive Officer.

- (viii) The Executive Officer shall furnish to the Commissioner of Endowments, Odisha such information as required under Section 15 of the Act.
- (ix) By the first week of the January of each calendar year, the Executive Officer shall submit to the Commissioner of Endowments a report on the administration of the institution for the preceding year briefly indicating therein the improvements made or effected to the institution and its financial position positively.

7. Absence of Executive Officer—

The President of the Trust Board of the institution shall take upon himself the function of the Executive Officer in the absence of the Executive Officer whether on leave or otherwise.

8. Custody of Records, Valuables etc.—

- (i) The Executive Officer shall be responsible for the custody of records and the properties including cash and valuables of the institution and shall arrange for the proper collection of the offerings made in or at the institution. All the valuables of the institution shall be kept under double lock, with one key remaining in custody of the Executive Officer and the other key with the President of the Trust Board.
- (ii) All the collections of the institution shall be deposited in the official Bank account of the institution opened in any of the Nationalised Banks, which shall be jointly operated by the President of the Trust Board of the institution and the Executive Officer.

9. Subject to the provisions contained in the Act and the Rules and with the prior approval of the Trust Board and the Assistant Commissioner of Endowments, Bhubaneswar, the Executive Officer—

- (a) may lease out the land, building, shop rooms owned by the institution, if any for the interest of the institution.
- (b) may call for tenders for works or supplies and accept tenders.
- (c) may only in case of emergency direct the execution of any work or doing of any act without waiting for the approval of the Trust Board, the immediate execution of which is in his opinion necessary for the preservation of the properties of the institution or for the service or for the safety of the pilgrims visiting the institution or for the due discharge of the seba puja of the deity institution and he may direct that the expenses of the execution of the work shall be paid from the funds of the institution. Action so taken, works so executed, expenses so incurred by the Executive Officer shall be placed before the Trust Board in the meeting held immediately thereafter for its approval.

10. The Parking lot owned by the Institution—

- (i) Subject to the restrictions contained in the Act, the parking lot owned by the deity institution shall be leased out for a maximum period of two years at a time by putting it into public auction with an upset price fixed by the Assistant Commissioner of Endowments, Bhubaneswar.

- (ii) Regarding auction of the parking lot, adequate notice shall be given to the general public by publishing the notice regarding the auction in the noticeboard of the institution and at least in a widely circulated Odia Daily Newspaper.

In case no one participates in the public auction, the same shall be put into public auction for the second time following the aforementioned procedure. In case of failure to lease out the same by way of public auction for the second time, further course of action in respect of operation thereof shall be decided by the Assistant Commissioner of Endowments, Bhubaneswar.

11. Necessity of prior approval of the Authority before making application seeking sanction for alienation of the property under Section 19 of the Act—

- (i) If the Executive Officer wants to make an application seeking permission for alienation of any immovable trust property belonging to the institution as per the provisions contained under Section 19 of the Act, he shall obtain the following before making such application-
 - (a) Prior approval of the trust board by making a written resolution to that effect clearly mentioning the grounds for doing so, and
 - (b) Prior administrative approval of the Assistant Commissioner of Endowments, Bhubaneswar of that resolution.
- (ii) The Executive Officer making such application seeking sanction under Section 19 of the Act without fulfilling the conditions mentioned in Clause 11 (i) shall be a ground for his immediate removal by the Assistant Commissioner of Endowments, Bhubaneswar.

12. Budget of the Institution—

- (i) Subject to the provisions contained in Section 34 and Section 57 of the Act, the Budget of the probable receipts and disbursement of the institution in respect of a financial year shall be prepared by the Executive Officer in consultation with the Trust Board and it shall be submitted before the Assistant Commissioner of Endowments, Bhubaneswar for approval within the stipulated time.

In the absence of a scale of expenditure fixed as per the provisions contained in Section 34 of the Act,—

- (a) The budget shall provide an expenditure not exceeding 30% of the net income towards daily necessities and seba puja and not exceeding 20% thereof for the periodical festivals.
- (b) The Establishment charges shall in no event exceed 25% of the net income of the institution.
- (c) A sum not exceeding 5% of the net income shall be set apart for meeting any unforeseen liabilities.
- (d) The budget shall provide for a sum not exceeding 10% of the net income of the institution for the purpose of effecting petty repairs, white washing and for capital construction etc; for a sum not exceeding 3% of the net income for meeting litigation expenses and for a sum not exceeding 2% of the net income for charity.
- (e) The budget shall also provide a sum not exceeding 5% of the net income for the miscellaneous expenses for which no specific head of expenditure has been provided.

13. Offerings made to the deity—

- (i) All offerings in the form of cash, kind or livestock made to the deity shall form part of the endowments of the institution and the Trust Board shall take possession of the same. Printed receipts shall be given by the institution to the donors for all such offerings and necessary entry shall be made in the official records of the institution by the Executive Officer.
- (ii) No priest, sevak, or employee of the institution shall have any claim over such offerings made to the deity.

14. A scale of fees for performing various services at the institution, if fixed by the Trust Board shall be hung at prominent places of the institution for the information of the devotees visiting the institution.

15. Donation Box :

- (i) The Executive Officer in consultation with the Trust Board shall install adequate number of donation boxes (Hundies) inside the premises of the institution.
- (ii) The donation box shall be opened at least once in a month and the cash and valuables found therein shall be counted by the Executive Officer in the presence of at least one of the members of the Trust Board, regarding which prior notice in writing shall be given to all the members of the Trust Board.

16. Save insofar as expressly provided herein, the Board of the Trustees shall have all the rights and powers and shall be liable to discharge all the duties provided in the Act and the Rules framed thereunder.

17. In case of any doubt or ambiguity arising out of any of the provisions of the scheme, it shall be decided by the Assistant Commissioner of Endowments, Bhubaneswar and such decision shall be final.

18. Subject to the provisions of the Act, the Assistant Commissioner of Endowments, Bhubaneswar reserves the right to add, modify or alter any of the provisions of the scheme, if so needed in the interest of the institution.

ASHISH PATTANAIK

Assistant Commissioner of Endowments
Bhubaneswar